United Nations A/HRC/38/NGO/91

General Assembly

Distr.: General
14 June 2018

English, French and Spanish only

Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Centre Europe - tiers monde, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09792(E)
1809792

Please recycle

Workers' Human Rights Violations By Glencore Around The World[1]

Introduction

1. The Europe–Third World Centre (CETIM) is alarmed by the increase of human rights violations committed by transnational corporations (TNCs) around the world. This declaration highlights violations committed by Glencore corporation, its subsidiaries and subcontractors in several countries.

2. Glencore PLC is one of the largest mining and commodities trading companies in the world. Headquartered in Switzerland, its shares are publicly traded on stock exchanges. Civil society organisations have long criticized this transnational corporation for its harmful impact on local communities and the environment. Glencore is also facing increased scrutiny by regulators in many countries over its business dealings and corporate governance practices, as well as a global campaign by unions to press the company to respect labour rights.

Workers' human rights violations

3. Following is a brief report of some of Glencore's recent violations of workers' human rights as reported to IndustriALL Global Union[2] by Glencore's workers and their unions in different countries and sectors.

Health and safety

4. The International Covenant on Economic, Social and Cultural Rights (ICESCR) asserts, among other rights, the right of everyone to the enjoyment of healthy and safe conditions of work (art.7). According to first-hand testimony from the unions in the mining sector, Glencore rarely assures its workers these fundamental rights, guaranteed by international human rights law.

5. For instance, in **Bolivia**, Glencore workers who are paid on a production basis complain that safety equipment is substandard. Unions in that country say subcontracted workers in the Illapa and Sinchi Wayra group are not properly trained, a situation that led to two fatal accidents in 2017. Ironically, the company is now putting pressure on the workforce, threatening to close mines if there are any further accidents, as if the workers were responsible for the lack of safety measures.

6. In **Zambia**, a similar dynamic was reported from the workers of the Mopani Copper Mines, a Glencore subsidiary, where the company reportedly threatened to close the mine if there were any fatalities in 2017. Mopani workers claim that medical reports were falsified in order to force sick workers to return to work. In addition, regular silicosis check-ups are not properly conducted, whereas the workers are daily exposed to harmful substances. Last but not least, faulty equipment used by subcontractor companies put workers' lives at risk. Following a large reduction in employment levels, the operations are understaffed, and some employees must routinely work for 24-hour periods underground. Glencore has adopted a so-called "zero tolerance" approach to occupational health and safety. While this might sound good in public reporting, in reality it means a shift of blame and liability from the employer to the victims, with "zero tolerance" resulting in punishing the workers if there is a workplace accident. This translates into de facto suppression of the reporting of accidents through employee fear of disciplinary measures, thereby artificially embellishing safety statistics.

---

1 This declaration was drafted in collaboration with IndustriALL Global Union.

2 See http://www.industriall-union.org/

7. In **Colombia**, the Sintracarbón union reported in August 2017 that, in less than one month, there were 13 work accidents at Cerrejón, an open-cast coal mine co-owned by Glencore, BHP Billiton and Anglo American. Sintracarbón has asserted that health and safety at the Calenturitas mine is substandard. Productivity is prioritized over health and safety, safety equipment is not properly maintained, and the joint health and safety committee is not functioning effectively. Disabled workers are given jobs collecting garbage or are isolated with nothing to do.

8. In the **Democratic Republic of Congo**, workers' complaints against Glencore copper and cobalt mining subsidiaries concern inadequate amounts of drinking water in some Glencore operations, with low quality food and lack of a designated eating area, obliging mine workers to eat where they work, sometimes around chemicals. Above all, these complaints highlight the extremely limited and inadequate healthcare provided by Glencore to workers and their families. These workers also complain about unfairly low wages, which in the DRC stand in particular contrast to the extreme profitability of Glencore's operations. Nonetheless, Glencore categorically refuses to enter into negotiations over long standing grievances.

Precarisation of working conditions

9. Among Glencore's total workforce, the percentage of contractors, also known as sub-contracted workers, has constantly increased in recent years[3]. In 2017, over 62,000 of its workers, or 43% of its workforce, were contractors, up from 38% the previous year. As demonstrated below, this issue is highly problematic with regard to workers' fundamental rights.

Workforce numbers at year end

	2015	2016	2017 (excluding agriculture)
Employees	100,614	95,958	83,679
Contractors	55,854	58,874	62,298
Total workforce	156,468	154,832	145,977

Source: Glencore Annual Report 2017

10. This phenomenon is causing a worrying casualisation of the workforce as it leaves workers without an adequate standard of living, equal remuneration for work of equal value, equal opportunity of positions, security of a permanent contract, pension and health insurance and, in practice, the right to form or join trade unions.

11. In **Colombia**, in 2016, Cerrejón was fined two billion pesos (over US$ 650,000) by the Colombian Ministry of Labour for "excessive use of third-party contractors".[4] At Glencore's Prodeco operation in Colombia, Sintracarbón reports that Glencore has used outsourcing as a tool to undermine the union. Contractors who are on one-year fixed contracts are deterred from joining a union, because doing so would put the renewal of their contracts at risk.

12. According to the Mineworkers' Union of Zambia (MUZ), about half of the workers at Glencore's majority-owned Mopani copper operations are casual, and these workers make on average under one-third of the wages of permanent employees. The regular workers are unionised while the casual ones are not, restricting the ability of the latter to speak up about poor working conditions and sub-standard pay. Unions in Zambia also claim that subcontracted workers at Glencore are being employed for longer periods than is permitted by law.

Breaking labour relations

3 Contractors are intended as those casual or temporary workers employed by third-parties (suppliers, subcontractors enterprises or other economic entities) which are under the economic control of the main parent company (in this case Glencore).
4 Cited in Vattenfall, "A Human Rights Risk Assessment in Colombia", November 2017, p. 25, https://www.business-humanrights.org/sites/default/files/documents/vattenfall_coal_sorcing_report_2017_0.pdf

13. Far from negotiating in good faith with unions as representatives of the workforce, Glencore is constantly accused of actively trying to break unions. In **Australia**, the company locked out workers at its Oaky North mine for over 230 days for resisting a plan that aimed to replace permanent workers with subcontracted labourers. Australia's state labour arbitrator, the Fair Work Commission, ordered the company to stop the surveillance of workers and to withdraw the ban on wearing union t-shirts. According to testimony given, workers and their families, during social events as well as throughout their daily lives, were followed and filmed by private security guards employed by the company.

14. In **Canada**, workers at the Glencore-managed CEZinc zinc refinery in Quebec went on strike for nine months in 2017 after the company tried to cut costs by weakening their pension scheme. During the strikes, the company reportedly illegally hired strike-breakers in order to deligitimise the workers' grievances.

15. In the **Democratic Republic of Congo**, Glencore workers contend that different treatment and conditions of employment between Glencore's Mutanda and KCC operations constitute a deliberate attempt by the company to divide and weaken trade unions.

16. In **Colombia**, Glencore's wholly-owned subsidiary, Prodeco, refuses to negotiate as a single employer, a situation that leads to inequality of treatment and discrimination among workers. The company continues to operate Carbones La Jagua, Consorcio Minero and Calenturitas as three distinct entities, although the Colombian authorities requested that it integrate the three operations into a single business enterprise. In practice, all three mines are run from the same floor of the same building in Baranquilla, and they share the same top management. However, workers from the three mines are subjected to different terms and conditions and are denied the opportunity to join forces to negotiate with a common employer.

17. Sintracarbón reports that Prodeco has blatantly violated the right to freedom of association at its Calenturitas mine by discriminating against union leaders and members, by interfering with the right of workers to freely choose their union affiliation, and by undermining the collective bargaining process. Management has discriminated against union leaders by changing their shifts or positions, by applying drastic disciplinary measures – including dismissals or multiple suspensions for the same offence – or at times by sending them on paid leave as a means of marginalizing them. The company has granted preferential treatment to representatives of non-unionized workers, including during negotiations and in terms of work opportunities. Further, the company persuaded union members to resign from the union through a combination of threats and incentives. As an additional means of weakening the union, 70 percent of jobs have been outsourced, including in the core functions of the mine.

18. In **Peru**, Glencore's Compañía Minera de Antapaccay has taken advantage of the weakness of Peru's regulatory framework to unfairly prevent technical staff from exercising their right to freedom of association. The company has resorted to arbitrary dismissals, coercion and interference in union affairs since 2013. In 2010, the company reclassified 450 technicians, supervisors and administrative employees as 'employees of confidence', even though the staff in question perform ordinary operational duties and do not report directly to management. In so doing Glencore was taking advantage of a provision in Peru's retrograde labour legislation limiting the right of managerial and 'trusted' staff to organise and bargain collectively as well as making them vulnerable to dismissal for 'subjective' reasons. The ILO has repeatedly warned the government that an overly narrow definition of 'employee of confidence' could unfairly restrict the rights of such workers and has asked the government to review its legislation to ensure that all workers enjoy the right to organize and bargain collectively. In 2013, in response to unfair treatment (particularly in relation to pay and promotion opportunities) as well as their sense of vulnerability as supposed 'employees of confidence', a group of technicians and administrative staff decided to form a union in order to have a voice at work. The labour authorities issued the union registration on 27 November. Two days later, all 35 union members received letters of dismissal, without explanation. Shortly afterwards, management offered to take the fired workers back, under the conditions that they accept to quit the union and sign a letter drafted by the company's lawyers. Five union leaders who refused to

accept the conditions were not reinstated, despite being union leaders protected by 'fuero sindical' (protection from dismissal for union activities).[5]

Conclusion

19. IndustriALL Global Union attempted to engage Glencore in meaningful global social dialogue about the company's poor health and safety practices, poor treatment of workers, unresolved labour disputes and anti-trade union practices. Glencore failed to do so. Facing this, workers and unions, including IndustriALL, are trying to reach global agreements on common strategies and jointly agreed labour principles, necessary to the respect and enforcement of the international norms with regard to labour and human rights.

20. Glencore's systematic practice of violating workers' human and labour rights around the world with almost total impunity and without being held accountable highlights the urgent need for an international legally binding instrument allowing the regulation of transnational corporations' activities and their impacts on human rights. As well, this instrument would be an essential tool to guarantee access to justice for the victims and the affected communities.

21. The CETIM urges the host states of Glencore and its subsidiaries to honour their human rights and international labour standards commitments by taking concrete steps to ensure that this company respects, in particular, workers' rights to safety, health, decent income and freedom of peaceful assembly and association.

22. The CETIM also urges the Swiss authorities to comply with its obligation to assure that transnational corporations based within its territory do not violate human rights, in particular while carrying on their activities in other countries and, should violations occur, to grant victims access to justice. We appeal in particular to the government of Switzerland to intervene in order to put an end to Glencore's violations of the human rights of workers, and to ensure that victims obtain justice.

5 Since then, the union has filed an ILO complaint which is available here (CFA Case No. 3069): http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:3237745. According to a follow-up submission dated August 2017, the union says harassment of the trade union leaders has continued.